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EXAMINER

SHECHTMAN, CHERYL MARIA

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,640	<b>Applicant(s)</b> NARAHARA ET AL.	
	<b>Examiner</b> CHERYL M. SHECHTMAN	<b>Art Unit</b> 2163	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/26/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This communication is in response to Preliminary amendment filed November 13, 2007. Claims 1-29 are pending. Claims 1-29 have been amended.

### ***Drawings***

2. Referring to Applicant's amendment of Fig. 9, Applicant's provision of an Annotated amended drawing submitted on November 13, 2007 is acknowledged. However, Applicant is required to also submit a 'Replacement Sheet' for Fig. 9 in order for the amendment to the drawings to conform to MPEP requirements. See below.

### **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

#### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 15, and 29 recite the following limitations: "the starting program", in paragraphs 4, 3, and 3 of the claims respectively. There is insufficient antecedent basis for these limitations in the claims.

Claims 3 and 13 recite the following limitations: "the ID of the starting program", in the claims. There is insufficient antecedent basis for these limitations in the claims.

Claims 16-19, 22, 23 and 25-27 recite the limitation "the step" in the claims. There is insufficient antecedent basis for these limitations in the claims.

Due to the 35 USC § 112 rejections, the claims have been treated on their merits as best understood by the examiner.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 29 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Referring to claim 29, the claim recites “a recording medium recorded with a computer program..”. However, this claim discloses software per se since it lacks the hardware necessary to realize any underlying functionality. Examiner suggests that the preamble of the claim be rephrased so as to enable the computer program to be tangibly embodied in a *computer readable* recording medium in order to make the claim describe statutory subject matter.

To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the

applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-8, 10, 15-22, 24 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by US Publication Number 2003/0028889 by McCoskey et al (hereafter McCoskey).

Referring to claim 15, McCoskey discloses an information processing method for supporting operations on program contents distributed at scheduled times where information on each program content is managed using a database (Technical Field, Summary), the method comprising:

- setting a program at which the operations are started (see search request criteria e.g. 'Program title' , Fig. 18b; para. 62-63);
- searching the database for information on programs in all program states to extract programs related to the starting program (searching of suggestion database, para. 62-64) and generating a starting-program-related information page including the extracted related programs (search results form, para. 67, Fig. 5 and 19a-b); and
- presenting a detailed operation screen in response to the selection of a program related to the starting program on the starting-program-related information page, the detailed operation screen including a method of operation that can be used

for the related program depending on the program state of the related program (selection of documentary type, para. 68).

Referring to claim 29, the limitations of the claim repeat the respective limitations of claim 15 above in the form of a computer program (para. 57, 66, and 101). As such, claim 29 is rejected for the same reasons as claim 15.

Referring to claim 1, the limitations of the claim are similar to those of claim 15 in the form of an apparatus (Abstract). Claim 1 additionally recites a program information managing section which manages information on program contents (para. 20, 57, 116 and 120).

Referring to claims 2 and 16, McCoskey discloses that the starting program setting section sets as the starting program program contents selected from among program contents which are being reproduced, watched, or listened to by a user or from among program contents in a predetermined program table (para. 44-45).

Referring to claims 3 and 17, McCoskey discloses generating the starting-program-related information page by extracting related programs from the ID of the set starting program (see user rating criteria, Fig. 18b).

Referring to claims 4 and 18, McCoskey discloses generating the starting-program-related information page by extracting related programs from at least a date of broadcast, a time of broadcast, and a broadcast station name, at the time the starting program is set (see date, time and content provider criteria, Fig. 18b; para. 100).

Referring to claims 5 and 19, McCoskey discloses managing program information including a plurality of items to which degrees of relationship to programs are assigned; and retrieving programs related to the starting program with respect to each of the plurality of items based on the degrees of relationship to the starting program and generates the starting-program-related information page by arranging results of the retrieval (para. 64).

Referring to claims 6 and 20, McCoskey discloses generating the starting-program-related information page from the results of the retrieval by arranging the related programs in descending order of the items in the degrees of relationship with the starting program (para. 64-68 and 97).

Referring to claims 7 and 21, McCoskey discloses a reception section which receives program contents and a recording section which performs recording and preset recording of the received program contents (user terminal 202 receives and records downloaded program content, see Fig. 2, element 202; para. 43-46); wherein the program states include at least one of a state in which program contents have already been recorded, a state in which the recording has not been made yet, a state in which presetting for recording has already been made, a state in which presetting for



recording has not been made yet, or a state in which program contents have not been received yet (para 45 and 61).

Referring to claims 8 and 22, McCoskey discloses displaying the program state associated with each piece of related information on the starting-program-related information page (scheduling and availability of program data, para. 61; see also Fig. 19b).

Referring to claims 10 and 24, McCoskey discloses maintaining a display history of the starting-program-related page (para. 101).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9, 11-14, 23 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication Number 2003/0028889 by McCoskey et al (hereafter McCoskey) as applied to claims 1 and 15 above, and further in view of US Patent Number 5,479,266 issued to Young et al (hereafter Young).

Referring to claims 9, 11-13, 23 and 25-27, McCoskey discloses all of the above claimed subject matter, however fails to disclose:

- displaying an icon indicating a program state associated with each piece of related information on a program-related information page (claims 9 and 23);
- a detailed operation screen that presents erasure of record as a method of operation when a program state of a selected related program is a state in which program contents have already been recorded (claims 11 and 25);
- a detailed operation screen that presents cancellation of recording and/or confirmation of presetting as a method of operation when a program state of a selected related program is the state in which presetting for recording has already been made (claims 12 and 26); and
- a detailed operation screen that presents presetting for recording as a method of operation when a program state of a selected related program is a state in which presetting for recording has not been made yet (claims 13 and 27).

However, Young teaches analogous art that includes:

- displaying an icon indicating a program state associated with each piece of related information on a program-related information page (claims 9 and 23) [Fig. 23; col. 5, line 40- col. 6, line 17, Fig. 2-3];
- a detailed operation screen that presents erasure of record as a method of operation when a program state of a selected related program is a state in which

program contents have already been recorded (claims 11 and 25)[see Fig. 23 and related portions of specification];

- a detailed operation screen that presents cancellation of recording and/or confirmation of presetting as a method of operation when a program state of a selected related program is the state in which presetting for recording has already been made (claims 12 and 26)[ see Fig. 23 and related portions of specification]; and
- a detailed operation screen that presents presetting for recording as a method of operation when a program state of a selected related program is a state in which presetting for recording has not been made yet (claims 13 and 27)[see Fig. 23 and related portions of specification, col. 5, line 56- col. 6, line 17; Fig. 2-3].

It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify McCoskey to include displaying an icon indicating a program state; a detailed operation screen that presents erasure of record as a method of operation when a program state of a selected related program is a state in which program contents have already been recorded, cancellation of recording and/or confirmation of presetting as a method of operation when a program state of a selected related program is the state in which presetting for recording has already been made and presetting for recording as a method of operation when a program state of a selected related program is a state in which presetting for recording has not been made yet, as taught by Young.

The ordinary skilled artisan would have been motivated to modify McCoskey per the above for the purpose of providing an intuitive user interface that allows users to access onscreen television program listings and use the listings easily and conveniently to facilitate program recording (Young, see Field of Invention).

Referring to claims 14 and 28, the combination of McCoskey/Young discloses that the detailed operation screen presenting section presents a plurality of methods for presetting for recording (Young, see Fig. 23 and related portions of specification).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents or publications are cited with respect to interactive program suggestions for viewers:

- US Patent 7,013,478 by Hendricks et al;
- US PGPub 2002/0188949 by Wang et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl M Shechtman who can be reached on (571) 272-4018. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl M Shechtman/  
Examiner, Art Unit 2163  
CMS

/Uyen T. Le/

Primary Examiner, Art Unit 2163